

Texas Prescribed Burning Board Minutes

Texas Department of Agriculture

Stephen F. Austin Building, 11th Floor Conference Room

Thursday, September 21, 2017

CALL TO ORDER

Pursuant to a notice posted on September 13, 2017, the Prescribed Burning Board (Board) meeting was called to order at 1:04 P.M. by Chairman Justin Penick. The roll was answered as follows:

Present: James “Rooter” Brite, Larry J. Doherty, Justin Dreibelbis, Rich Gray, Amancio Gutierrez, Justin Penick, Frank Price, Rusty Ray, Dr. Morgan Russell, Dale Scott, Dr. Robin Verble.

Absent: Arnolando Saenz, William “Bill” Rogers.

With eleven members present and two members absent, a quorum was present.

Guests Present: Chris Gee (TDA), Patrick Dudley (TDA), Stephen Dillon (TDA), Jessica Escobar (TDA), Andy McCrady (TFS), Jordan Smith (TFS), Jeff Adams (FWS), Lucien Ball (City of Austin), Glenn Gillman (Travis County Parks), and Brian Treadwell.

The Chair welcomed everyone to the Prescribed Burning Board meeting and recognized everyone to introduce themselves.

APPROVAL OF MINUTES

The Chair laid out the minutes from the previous Board meeting on March 2, 2017 for review. Brite made a motion to approve the minutes as presented. Russell seconded the motion; the motion prevailed unanimously.

APPROVAL OF APPLICANTS

The Chair laid out item IV and recognized Patrick Dudley to bring forth any new Certified and Insured Prescribed Burn Manager (CIPBM) applications before the board for approval. Upon review of the applicants, Brite made a motion to approve all applications presented. Price seconded the motion; the motion prevailed unanimously.

TCEQ UPDATE

The Chair laid out item V and recognized board member Amancio Gutierrez to give the Board an update on the Texas Commission of Environmental Quality (TCEQ) rules regarding Prescribed Burning. Gutierrez informed the Board the new rules were originally brought to them by a petition from the Texas Forestry Service. The final rules had been placed on the July 7, 2017 TCEQ meeting agenda and were passed. Previously, Certified and Insured Prescribed Burn Managers followed Title 30 Chapter 111.219 of the Texas Administrative Code. The TCEQ rule added Sec. 111.217 as a new chapter outlining the requirements for Certified and Insured Prescribed Burn Managers. Gutierrez reported six main changes within Sec. 111.217. One, when possible, notification of the prescribed burn should be made to the TCEQ regional office prior to a burn. Two, the rule references TDA's Title 4 Chapters 227 and 228. Three, the requirement for flaggers was removed. Four, the requirement that burning be conducted downwind from sensitive receptors was removed. Five, changed the rule requirement to require prescribed burning commence no earlier than sunrise and shall be completed on the same day no later than an hour before sunset. Six, modified the rule requirement that burning can only commence when surface wind speeds are predicted to be no less than 5 miles an hour instead of 6 miles an hour as the rule stated previously.

The Board then discussed ways to develop a stronger relationship with TCEQ and would like to make sure future rule changes are done in coordination with the PBB prior to rule changes. This would be to make sure there are no discrepancies between TCEQ rules and PBB rules in the future. The Board wanted to begin establishing stronger relationships not just with TCEQ, but other agencies like the Texas Forest Service who work with Prescribed Burning.

TDA UPDATE

The Chair laid out item VI and recognized Patrick Dudley with TDA to update the Board on member absences. Dudley reviewed Sec. 153.041 of the Natural Resources Code Subsection (e) regarding the grounds of removal from the Board. It was a consensus of the Board to keep a continued record of absences moving forward and to make sure Board members who do have an absence get the absence excused by a majority vote from the Board as required by Sec. 153.041 of the Natural Resources Code.

Jessica Escobar with TDA reviewed the Opens Meeting Act with the Board to refresh the current and new Board members on the requirements, per the Board's request.

MEETING DISCUSSION AND ACTION

The Chair laid out items VII, XI, and XII and recognized Dr. Morgan Russell to report on the Lead Burn Instructors Meeting held earlier in the morning regarding training and curriculum. Russell brought four motions to the Board for review that were developed by the Lead Burn Instructors during the annual Lead Burn Instructor meeting. These motions were voted on and supported by all the Lead Burn Instructors present at the annual meeting.

Motion 1 - Recommends the Advisory Council draft a standardized test with specific language for each of the 5 eco-regions. Reason being there is currently no standardized test to become a CIPBM and would create consistency in testing among Lead Burn Instructors and for approving CIPBMs.

Motion 2 – In order for Lead Burn Instructors to have the ability to adjust the time spent on the board-approved curriculum (based on the aptitude of the students attending the class and the discretion of Lead Burn Instructor), it is recommended to establish a minimum curriculum length of 24 – 32 hours. This recommended length must meet curriculum objectives set forth and approved by the Board, but can be broken up or completed in a single time frame as the Lead Burn Instructor deems necessary.

Motion 3 – There should be no deadline for when an applicant takes a test and meets curriculum requirements and submits his or her application for the CIPBM, including the PBB-602 form.

Motion 4 – A Lead Burn Instructor that does not attend the annual mandatory meeting and does not have an excused absence by a majority vote of the Board will be removed as a Lead Burn Instructor.

After completing a review of the motions, the Chair recommended each motion be brought up one at a time to be discussed by the Board. The first motion brought to the table was Motion 2 regarding the length and time of training. The Chair reviewed the Board's previous decision from 2009 requiring the minimum time of curriculum to be 32 hours. At that time a potential CIPBM candidate had 4 days of classroom training and a 5th day reserved for burning; essentially 40 hours of training. The current motion on the table, the Chair restated, would allow the Lead Burn Instructor to have the flexibility to push or pull time from one area of learning to another dependent on his or her students, as long as they meet the 24-32 minimum hours of approved curriculum. Discussion was held between Board members regarding the motion as favorable, citing

as long as substantive changes are not made in the curriculum, it was important for the Lead Burn Instructors to have flexibility and discretion when instructing.

In discussing the motions, a question was asked where in the rulemaking process these motions would be placed. Representatives from TDA agreed it would be simpler to designate one person from the Board as liaison to work with TDA on the development of rules before bringing a draft back to the entire Board. A quick review was made of what rules would need to be drafted to include the four motions brought to the Board by the Lead Burn Instructor annual meeting. The review included moving or creating a new chapter for Lead Burn Instructor Requirements, an annual mandatory meeting for Lead Burn Instructors, and the excused absence process for any Lead Burn Instructor that did not attend the annual meeting. In order to simplify the process, the Board decided to act upon the recommendations of TDA and appoint a liaison to work with TDA and bring back a draft of rules including but not limited to the four motions brought to the Board. Dr. Verble made a motion to appoint Dr. Russell as the liaison for the Board to assist TDA in the rules process. A second was made by Brite and the motion passed unanimously.

Russell continued to report to the Board that during the annual meeting there were Lead Burn Instructors that asked their names be removed from the Lead Burn Instructor list: Wayne Hanselka, David Sierra, Duane Lucia, and Hi Newby Jr.

The Chair recognized Ray Hinnant to discuss the possibility of the Advisory Board creating the standardized test as indicated in Motion 1. Upon discussion between the Board and Hinnant, it was decided a Sub-Committee be appointed in order to move forward in drafting the standardized test for review at the next meeting. Dr. Robin Verble volunteered to lead the Standardized Test Sub-Committee and chose Ray Hinnant, Butch Taylor, Bob Watson, Keith Blair, and Rich Gray to create a standardized test. Dr. Verble informed the Board she would bring a draft back for the next meeting.

The Chair then recognized Dr. Russell to give an update on the Curriculum Sub-Committee. After discussion by the Board it was decided to dissolve the Curriculum Sub-Committee unless it was needed in the future. A motion was made by Russell and seconded by Dreibelbis to dissolve the Curriculum Sub-Committee; the motion passed unanimously.

The Chair laid out item VIII and recognized Patrick Dudley to review upcoming board member terms. Dudley reviewed the upcoming terms limits with the Board.

LEGISLATIVE UPDATE

The Chair laid out item X and recognized Patrick Dudley with TDA to give a review of the 85th Legislative Session. Of the legislation being tracked by the Board only HB 2386 passed into law. This bill did not have any effect on the Prescribed Burning Board. All other pieces of Legislation tracked by the Board failed.

TEXAS FOREST SERVICE UPDATE

The Chair laid out item XI and recognized Rich Gray and Jordan Smith with the Texas Forest Service (TFS) to update the Board on the TFS database for documenting prescribed burns. Jordan Smith gave a presentation on the current draft of capabilities TFS has been working on. The idea behind the TFS database recommended by the Board in 2010 was to capture more actual data to give to insurance companies. After discussion between the Board and TFS it was determined the database, while a good resource, would not have an effect on the way insurance companies insure Certified and Insured Prescribed Burn Managers. TFS also reported it is easier to receive notice from dispatch than to receive the information electronically. TFS reported to the Board that regardless of the Board's decision, TFS would still continue to build out the database for their use. A motion was made to cease TFS updates regarding the database for documentation of Prescribed Burns. The Board expressed much gratitude to both Rich and Jordan for all the Texas Forestry Service's hard work put into the program. The motion was seconded by Brite; the motion passed unanimously.

BOARD DISCUSSION

The Chair laid out item XIII regarding the use of Prescribed Burning Board meeting attendance as CFTs and recognized Larry Doherty to lay out the idea. After thorough discussion the Board left this item tabled.

The Board discussed other business raised during the meeting to be placed on the next agenda. Dudley will contact members of the Board prior to the next meeting to determine additional agenda items. The Board came to a consensus the next meeting should be held Thursday, February 22, 2018 at the Stephen F. Austin Building in Austin at 1:00 p.m.

The Chair then opened the floor for public comment. Ray Hinnant advised the Board to look at Sec. 228.2 Subsection (a) (1) the sensitive receptor rule still in place to determine if it interferes with the new rules set by TCEQ.

AJOURNMENT

With no additional business, Chairman Penick entertained a motion to adjourn until February 22, 2018. A motion was made and seconded to adjourn. There being no objection, the meeting was adjourned at 3:41 p.m.